

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ARRON SCHULTZ,

Plaintiff,

v.

ORDER

Case No. 17-cv-908-wmc

C.O. JASON BARNET,
C.O. JANE TURNER,
C.O. HIGLEY, C.O. TODD
JOHNSON, C.O. DANIEL OATES,
and C.O. KRAIG ZWIEFELHOFER,

Defendants.

Pro se plaintiff Arron Schultz is proceeding in this civil lawsuit against defendants, employees of the Eau Claire County jail, on Fourteenth Amendment excessive force and conditions of confinement claims related to events that took place when he was held at the jail in 2016. On November 20, 2020, defendants filed a motion for summary judgment, on the ground that plaintiff failed to exhaust his administrative remedies with respect to all of his claims in this lawsuit because he *never* filed a grievance related to events comprising his claims. (Dkt. #27.) The court set December 21, 2020, as plaintiff's opposition deadline. On December 28, 2020, a week after that deadline passed, plaintiff filed a motion for an extension of time to oppose defendants' motion. Magistrate Judge Crocker granted that motion, extending plaintiff's opposition deadline another month to January 27, 2021, but warning plaintiff that it was unlikely he would receive another extension of that deadline. That new deadline passed over two weeks ago, and plaintiff has not responded to defendants' motion or contacted the court seeking an extension of that

deadline. Instead, on February 1, 2021, plaintiff filed a document in which he denied each of defendants' affirmative defenses. (*See* dkt. #35.) Plaintiff's failure to respond to defendants' motion specifically, or to take any other action indicating that he is preparing an opposition, suggests that he may concede the merit of defendants' motion. However, to remove any doubt as to whether Schultz intends to defend himself, the court will give Schultz one more chance to respond to defendants' motion: he now has until **April 6, 2021**, to file an opposition to defendants' motion for summary judgment. His failure to meet this deadline will cause the court to grant defendants' motion and dismiss his claims in this lawsuit without prejudice.¹

ORDER

IT IS ORDERED that plaintiff Arron Schultz may have until **April 6, 2021**, to file a response to defendants' motion for summary judgment. **If Schultz does not meet that deadline, the court will grant defendants' motion for summary judgment and dismiss Schultz's claims in this lawsuit without prejudice.**

Dated this 23rd day of March, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge

¹ Dismissals for failure to exhaust administrative remedies are always without prejudice. *Ford v. Johnson*, 362 F.3d 395, 401 (7th Cir. 2004).